

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

BUILDERS MUTUAL INSURANCE COMPANY,

Plaintiff/Counterclaim Defendant,

v.

FIREMAN'S INSURANCE COMPANY OF  
WASHINGTON, D.C.,

Defendants/Crossclaim Plaintiff/  
Crossclaim Defendant,

And

DRAGAS MANAGEMENT CORP.,

Defendant/Cross Claim Plaintiff/  
Crossclaim Defendant/Counterclaim  
Plaintiff/Third-Party Plaintiff,

v.

HANOVER INS. CO. AND  
CITIZENS INS. CO. OF AMERICA.

Third-Party Defendants.

Civil No. 2:09cv185

**BUILDERS MUTUAL INSURANCE COMPANY'S  
MOTION FOR PROTECTIVE ORDER AND MOTION TO QUASH**

Builders Mutual Insurance Company's ("BMIC"), by counsel and pursuant to Fed. R. Civ. P. 26(c)(1), moves this Court for entry of a Protective Order protecting BMIC from having to produce BMIC underwriter David Manfreda for a noticed deposition on wholly irrelevant interpretation and/or ambiguity issues; from having to answer or otherwise respond to various extant interrogatories and requests for production of documents propounded by Dragas

Management Corporation, Dragas Associates X, LC, and Hampshires Associates, LC (collectively "Dragas") regarding wholly irrelevant interpretation and/or ambiguity issues, as well as proprietary and commercially sensitive information, and from having to produce information or materials protected by work product and attorney-client privileges; and protecting BMIC from having to respond to any other such discovery in the future for the reasons more particularly set forth in the supporting memorandum of law filed herewith as well as any arguments made at the hearing of this motion.

WHEREFORE, BMIC respectfully requests that this Court enter a Protective Order that (a) protects BMIC from having to produce BMIC underwriter David Manfreda for a noticed deposition (b) protects BMIC from having to respond to discovery requests regarding wholly irrelevant interpretation and/or ambiguity issues, (c) protects BMIC from having to produce information or documents which are proprietary and commercially sensitive, or which are subject to a contractual agreement for BMIC not to disclose or disseminate, (d) protects BMIC from having to respond to discovery requests regarding information or materials protected by work product and attorney-client privileges, (e) protects BMIC from having to respond to discovery requests which are excessively burdensome, and (f) for such other relief in favor of BMIC as this Court deems fair and just.

#### **CERTIFICATION**

Consistent with Rule 26(c)(1), the parties by counsel conferred in good faith on the discovery issues discussed herein. The parties were not able to agree.<sup>1</sup>

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<sup>1</sup> Counsel for BMIC and Dragas spoke in detail regarding the nature of Dragas' discovery requests regarding ambiguity, including document requests and interrogatories, and the intent to depose BMIC underwriter David Manfreda with respect what Mr. Manfreda thinks policy language might mean. Indeed, counsel agreed earlier the same day the Notice of Deposition for Mr. Manfreda was formally issued that the instant motion would be promptly filed.

Date: January 4, 2011

Respectfully submitted,

By Counsel

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/s/

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2011, I will electronically file the foregoing Motion for Protective Order with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to the following:

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